

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 211 OF 2009

Monday, this the 23rd day of November, 2009.

CORAM:

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Anil Kumar V.K.,
Processing Worker Grade III,
National Institute of Fisheries Post
Harvest Technology and Training,
P.B. No. 1801, Kochi – 16.

... **Applicant**

(By Advocate Mr. K. Shri Hari Rao)

versus

1. Union of India rep. by its Secretary,
Ministry of Agriculture, New Delhi.
2. The Secretary, Govt. of India,
Ministry of Agriculture, Department
of Animal Husbandry Dairying and
Fisheries, New Delhi.
3. The Director, 1/C,
National Institute of Fisheries Post
Harvest Technology and Training,
P.B. No. 1801, Kochi – 16.
4. The Marketing Officer,
National Institute of Fisheries Post
Harvest Technology and Training,
P.B. No. 1801, Kochi – 16.

... **Respondents**

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 23.11.2009, the Tribunal on the same day delivered the following :

ORDER

HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER

The applicant was appointed as Processing Worker Grade II vide Annexure A3 order dated 09-05-2007 under the temporary rules, in terms of DOPT O.M. dated 04-07-2001 and 05-07-2005. This appointment was

preceded by an offer of appointment, vide Annexure A2 Memorandum dated 27th April, 2007. Along with the applicant four more individuals were appointed in the same capacity. By Annexure A1 order dated 10th March, 2009, the respondents had, invoking the provisions of Rule 5 of the Temporary Service Rules, terminated the services of the applicant, by giving one month notice. No reasons have been spelt out therein. The applicant had immediately preferred an appeal, vide Annexure A4. This appeal had not been disposed of by the respondents, and hence, the applicant moved the Tribunal through this O.A.

2. In their reply, the respondents have stated that as certificate on character and antecedents was not forthcoming from the Collector, to whom a request was made, notice of one month was given to the applicant before termination of service under the Temporary Service Rules. In fact, vide Annexure-12 dated April 6, 2009, by the Ministry addressed to the District Collector, the reason for proposed termination of service was spelt out as stated above. And, during the pendency of this OA, the respondents have fairly made available a copy of the communication dated 12-09-2009 whereby the Additional District Magistrate, Ernakulam District had vouched the suitability of the applicant in the Army/Navy/Air Force/Civil service. This communication removes the earlier deficiency in the appointment of the applicant and has brought his case at par with other temporary service employees appointed along with the applicant. As such, the applicant is entitled to be reinstated into service. Accordingly, this OA is allowed to the extent that the respondent No.3, under intimation to Respondent No.2 shall pass suitable orders for reinstatement of the applicant. The period of absence shall be treated as duty for all purposes such as seniority, increment, qualifying

service etc., as applicable under the rules and as extended to other temporary service employees appointed with the applicant, save payment of salary to the applicant for the period of absence. Though the applicant could have been treated as entitled to back wages, as the lapse was not on the part of the respondents, but on the State Government Authorities, who have delayed the issue of certificate of character and antecedents, it would be inappropriate to saddle the respondents with the liability of payment of wages when they could not extract corresponding work from the applicant during the period of absence. Incidentally, the applicant too has not specifically claimed for payment of back wages. Reinstatement shall be made within two weeks from the date of communication of this order. It is made clear that issue of orders for reinstatement shall not be delayed on any ground including approval if any to be sought from Respondent No.1 or 2. Even, if there be any such requirement, the same shall be by way of ratification. No cost.

(Dated, the 23rd November, 2009.)



**K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER**

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**Dr. K.B.S. RAJAN
JUDICIAL MEMBER**